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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,151	06/11/2001	Nir Vulkan	P07179US00RF	9807

881 7590 01/31/2007  
STITES & HARBISON PLLC  
1199 NORTH FAIRFAX STREET  
SUITE 900  
ALEXANDRIA, VA 22314

EXAMINER
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WEIS, SAMUEL

ART UNIT	PAPER NUMBER
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3691

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/830,151	VULKAN, NIR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Samuel S. Weis	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 4-20, 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 21 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This is in response to the Applicant's election filed on December 19, 2006. Claims 1-3, 21, and 24 have been examined.

***Election/Restrictions***

2. Applicant's election without traverse of Group I, claims 1-3, 21, and 24 in the reply filed on December 19, 2006, is acknowledged. Claims 4-20, 22, and 23 are withdrawn from consideration.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-3, 21, and 24 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.
5. Claims 1-3, 21, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "numerical confidence value" in claims 1-3, 21, and 24 is a relative term which renders the claims indefinite. The term "numerical confidence value" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "propositions" in claims 1, 21, and 24 is a relative term which renders the claims indefinite. The term "propositions" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one

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of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "truth" in claims 1, 21, and 24 is a relative term which renders the claims indefinite. The term "truth" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "set of rules" in claim 2 is a relative term which renders the claim indefinite. The term "set of rules" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

7. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "high likelihood" in claim 3 is a relative term which renders the claim indefinite. The term "high likelihood" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "predetermined disadvantageous condition" is a relative term which renders the claim indefinite. The term "predetermined disadvantageous condition" is not

defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3, 21, and 24 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to nothing more than abstract ideas. To be eligible for a patent, claims that set forth subject matter by a judicial exception (i.e. abstract idea) must be for a practical application. A practical application results if the claimed invention transforms an article or physical object to a different state or thing or if the claimed invention produces a useful, concrete or tangible result. However, claims 1-3, 21, and 24 fail to transform an article or physical object to a different state or thing and the claimed invention as shown by claims 1-3, 21, and 24 fail to produce a useful, concrete or tangible result as discussed in detail below.

As to claims 1, 21, and 24, the claims are directed to a method / computer program / apparatus of / for regulating negotiation between two or more negotiating parties. However, the claims contain no physical structure. The claims recite various limitations as abstract ideas. It does not appear that the claim is directed to a practical application of a judicial exception. In order for the claim to be directed to a practical

application of a judicial exception, a useful, concrete and tangible result is produced. In order for the claim to be tangible the claim must set forth a practical application to produce a real world result. Claims 1-3, 21, and 24 do not produce a real world result. Therefore, the claims are non statutory.

As to claims 2 and 3, the claim limitations are directed to additional conditions and functions that are to be performed. The claims do not produce a real world result. Therefore, the claims are non statutory.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3, 21, and 24 are rejected under 35 U.S.C. § 102(a) as being anticipated by Ausubel, U.S. Pat. No. 5,905,975.

As to claims 1, 21, and 24, Ausubel discloses a computer implemented system and method of executing an auction comprising:  
between two or more negotiating parties which communicate using an electronic communication network (i.e. System has at least two intelligent systems, one for auctioneer and at least one for a user. The auction is conducted by the auctioneer's system communications with the user system(s)) (Abstract).

a set of negotiating propositions characterizing a negotiating environment, the propositions including one or more hypotheses (i.e. The auctioneer's system contains information from the user system(s) based on bid information entered by the user(s) (Abstract);

for each of said one or more hypotheses deriving a respective numerical confidence value, the or each confidence value representing confidence in the truth of the respective hypothesis (i.e. With this information the auctioneer's system determines whether the auction can be concluded or not and appropriate messages are transmitted to the user(s)) (Abstract); and

regulating the negotiation between said negotiating parties using said electronic communication network, based on said one or more confidence values (i.e. With this information the auctioneer's system determines whether the auction can be concluded or not and appropriate messages are transmitted to the user(s)) (Abstract);.

As to claim 2, Ausubel discloses the method according to claim 1 in which the negotiating parties negotiate according to a set of rules, and said regulation includes varying the set of rules based on said one or more confidence values (i.e. bidder may enter a preliminary set of bidding rules at the start of the auction, but then periodically choose to revise his bidding rules as information is generated through the auction process (col. 2, lines 15-18).

As to claim 3, Ausubel discloses the method according to claim 2 in which the set of rules are varied upon said one or more confidence values indicating a high likelihood of the negotiation reaching a predetermined disadvantageous condition (i.e. bidder may

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enter a preliminary set of bidding rules at the start of the auction, but then periodically choose to revise his bidding rules as information is generated through the auction process (col. 2, lines 15-18).

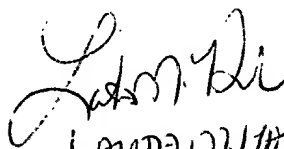
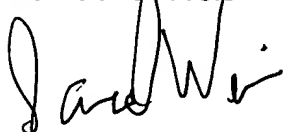
### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel S. Weis whose telephone number is (571) 272-2025. The examiner can normally be reached on 8:30 to 5, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samuel S. Weis



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PRIMARY EXAMINER, 3691